Militia law.
Conf Pam #501
D99096112.
Conf Pam #501

THE FLOWERS COLLECTION

Ordered to be Printed.

Syme & Hall, Printers to the Convention.

MILITIA LAW.

Mr. Venable, from the Committee of Military Affairs, reported the following Ordinance:

AN ORDINANCE TO AMEND THE SEVENTIETH CHAPTER OF THE REVISED CODE, "MILITIA."

SEC. 1st. *Be it ordained by the Convention of the State of North Carolina, and it is hereby ordained by the authority of the same*, That all free white maels and apprentices, who are of the age of eighteen years, and under the age of fifty years, and who reside in the State of North Carolina, except ministers of the gospel, shall be enrolled in the militia of this State, by the Captain or commanding officer of the infantry company within whose districts such persons shall reside: and the said officer shall notify such free white males and apprentices of their enrolments by a non-commissioned officer of his company, and by whom said notice shall be proved.

SEC. 2. *Be it further ordained*, That whenever a vacancy shall occur in the office of Major General, the field officers and staff of the Division shall, by a plurality of the written votes, elect some person to fill the same: and whenever a vacancy shall occur in the office of Brigadier General,

the same shall be filled by the field and staff officers of the Brigade, under the same rules and regulations herein prescribed for the election of a Major General; and the Governor shall commission said officers, when elected, according to this act.

SEC. 3. *Be it further ordained*, That whenever there shall be a vacancy in any company of the commissioned officers to command the said company, and upon an election having been ordered in said company, there shall be a failure to elect a Captain and other commissioned officers for the company, from either the failure of any candidate for said office or from the neglect or refusal of the company to elect, and where there are no suitable persons in said company who are willing to accept commissions in the company, after being elected or appointed to the same, it shall be the duty of the Colonel or other commanding officer in the Regiment to which said company is attached, or if there is no commander of said regiment, then it shall be the duty of the Brigadier General in whose brigade said regiment belongs, within thirty days after said election shall have been ordered by him, and the neglect or refusal of said company to elect company officers, either from the want of a candidate or for any other cause, and he is hereby authorized and required to appoint some fit and suitable person to supply said vacancies in said company, for the space of two years from the date of said appointment, whose duty it shall be to accept said appointment, and to act as Captain or other commissioned officer in said Company for two years from the date thereof, who shall be commissioned and have all the powers and authorities, and be liable to all the penalties as Captains and other commissioned company officers now have and are liable for by law; and if any person so appointed shall neglect or refuse to accept said appointment, or shall fail to receive said commission when tendered to him, and qualify as said officer within

the space of thirty days from the time of his appointment and commission tendered, he shall forfeit and pay the sum of fifty dollars, if appointed to the office of Captain, and twenty-five dollars if appointed to any other place as commissioned officer in the company, for such neglect or refusal, which penalty shall be recovered by warrant before any justice of the peace, in the name of the State, by the officer making the appointment, one-fifth to the use of the officer suing, and the other four-fifths to the use of the State; and it shall be the duty of the said commanding officer of the regiment, or in case there is none, then it shall be the duty of the Brigadier General in whose regiment said company belongs, within thirty days thereafter to make new appointments of other persons in said company, liable to do military duty, to said offices; and so on, under like penalties, until suitable officers can be found who shall accept said offices; *Provided*, that no person who is a member of any organized volunteer or fire company in this State shall be compelled to serve whilst he is a member of said company: *Provided*, further, that any person appointed as above shall not be compelled to equip himself with any of the equipments required by law for his said office, except a sword and belt, cap and plumage, epaulets and blue frock-coat and pants of homespun or any other texture, with white metal buttons: And, *Provided further*, that he shall be released from the payment of poll tax, from working on the road, and for serving on juries, during his continuance in said office.

SEC. 4. *Be it further ordained*, That any field officer, other than Major or Brigadier General, who shall fail or refuse to accept such office to which he may be elected or appointed, shall forfeit and pay the sum of one hundred dollars.

SEC. 5. *Be it further enacted*, That hereafter, whenever any vacany shall occur in any regiment, of Colonel, Lieu-

tenant Colonel or Major, the same shall be filled as hereinbefore directed to the Major General and Brigadier General: *Provided, however*, That the company officers in commission in said regiment, shall be authorized to make the election: *Provided*, That in all cases when said elections are to be made for field officers in division, Brigades or Regiments, the day shall be designated by the Adjutant General, and the votes counted by the two senior officers of the Division, Brigade or Regiment, and the Governor informed of the result, he shall issue Commissions to such officers elected as aforesaid.

SEC. 6. *Be it further ordained*, That each regiment shall consist of two battallions; the first commanded by the Lieutenant Colonel, and the second by the Major; and that the commandant of each regiment shall assemble his regiment twice in each year for drill and review; and for failure of this duty, shall forfeit and pay one hundred dollars; and that each battallion shall, by order of the Lieutenant Colonel and Major, assemble at separate places in the bounds of the Regiment, once in each year for drill and review as aforesaid; and for failure of this duty, they shall each forfeit and pay the sum of fifty dollars, the fine to be incurred and paid by the officer failing to assemble his battallion; and it shall be the duty of the commandant of the regiment to attend the drill and review of said battallion.

SEC. 7. *Be it further ordained*, That each captain or commandant of a company, shall assemble his company for drill, twice in each month, from the first of April to the first of December, during the war, and once a month in said months, in time of peace.

SEC. 8. *Be it further ordained*, That each brigade shall be composed of not less than four regiments, and each division of not less than four brigades; and it shall be the duty of the Brigadier General to review at least once a year the regiments composing his brigade; and for failure of this duty he shall forfeit and pay the sum of two hundred dollars;

and it shall be the duty of the Major General to review his division at least once a year, and for a failure of this duty he shall forfeit and pay four hundred dollars.

SEC. 9. *Be it further ordained*, That commissioned officers of the militia, including the officers of the volunteers, shall equip themselves with the uniform and equipments directed by the rules and regulations of the militia of the State of North Carolina: none of the duties of review or drilling shall be taken as having been performed, unless performed with such uniform or equipments.

SEC. 10. *Be it further ordained*. That in each brigade, the General commanding the same shall appoint a Brigade Inspector, who shall hold the rank of major, whose duty it shall be to drill all the commissioned and staff officers of the brigade at least three days before each regimental muster, and the said officers being required to drill in uniform; and the said brigade inspector shall, in like manner, drill the commissioned officers and staff of each battalion, at least two days before each battalion muster; and for each day's service in such drill he shall receive four dollars a day, to be paid at the treasury, upon a certificate of services rendered by the commandant of the brigade.

SEC. 11. *Be it further ordained*, That every commandant of a regiment shall, on or before the 25th day of October in each year, make a return of the strength of his regiment to the Brigadier General of the brigade to which such regiment belongs, and shall make a duplicate return to the Adjutant General, on or before the 25th day of November, in each year, and he shall note in said return whether his regiment has been reviewed by the major and brigadier general, and at what time; and in default of such return, he shall forfeit and pay one hundred dollars.

SEC. 12. *Be it further ordained*, That the tax list shall have column headed Military Roll, to be prepared by

the Comptroller, and that the tax list takers shall annually include in their lists the names of the persons in their districts between the ages of eighteen and fifty years, liable to be enrolled for military duty; and it shall be the duty of every white person who shall give in his taxables, to report himself on oath for enlistment, who is liable for military duty; and every white person who shall return his taxes, shall also, on oath, report every person residing in his family, who shall be liable for military duty.

SEC. 13. *Be it further ordained*, That the tax list takers shall return the lists to the clerks of the County Courts, and by them the names of such persons liable to military duty, shall be drawn off, the district in which they live specified, and a copy of such lists shall be given to the colonel of the regiment, and also, to the captain of the company in each district; and the clerks shall receive the sum of five dollars for their services, to be paid by the County Treasurer.

SEC. 14. *Be it further ordained*, That whenever any company shall be so disorganized, that there is no commissioned company officers to command the same, and no regular roll of said company, the sheriff of the county, after public notice shall have been given in a newspaper circulating in said company, or notice given at the Court House door and three other places in said company, then it shall be the duty of the commandant of the regiment, or if there be none such, then it shall be the duty of the Brigadier General of that Brigade, and if that, too, is vacant, it then shall be the duty of the sheriff of the county, between the first day of April and the first day of July in each and every year, upon the order of the Adjutant General, (if to the sheriff) to employ some fit and suitable person, living in said company or regiment, to enrol all the white males within the bounds of said company, between the ages of eighteen years and fifty years, liable to do military duty, and order the persons so enrolled to appear within ten days at the place where said

company had last usually held their company musters, for the purpose of holding an election for officers for said company; and the person so employed and detailed, shall have power and authority, and it shall be his duty to appoint all proper officers and a clerk for that day, to assist him, who shall each forfeit and pay the sum of two dollars, to be recovered before any justice of the peace, by the person detailed, one half to the use of said person, and the other half to the use of the State, for every neglect or refusal; and it shall be the duty of the person employed, to call the roll and note all delinquents; and he shall hold an election and report, and return the result of the same to the commanding officer of the regiment, or the Brigadier General, or the sheriff, as the case may be, who shall proceed as hereinbefore in this act ordered, in section 5th of this chapter. In case of no election, the officer or person to whom the return is made, shall return the same to his superior officer, or in case of the sheriff, to the Adjutant General; and in case any of the parties enrolled and notified to attend shall neglect or refuse to attend on the day appointed for said election, he shall forfeit and pay the sum of two dollars, to be recovered by the person detailed, by warrant, in the name of the State, before any justice of the peace of said county, one half to the use of the person detailed or employed to make such enrolment and election, and the other half to the use of the company, for military purposes.

SEC. 15. *Be it further ordained*, That there shall be formed a volunteer corps in the state, who shall be subject to the call of the commander-in-chief, in cases of emergency; the volunteer companies forming said corps, shall at the time of the organization, designate the length of time for which the same are offered to the Governor, to commence the date of said service from the day they are called by the commander-in-chief and marched to the place of rendezvous: *Provided*, That the time of service shall in no case be for less than twelve months.

SEC. 16. *Be it further ordained*, That the said corps of volunteers shall be composed of companies, each of which shall have not less than sixty-four privates, nor more than one hundred; and that, when called into actual service, ten companies shall compose one regiment.

SEC. 17. *Be it further ordained*, That the said volunteer companies shall constitute a portion of the regular militia of the State, and be incorporated into the regiments of the same until called into the service of the State, and when organized into regiments, shall elect, by a vote of the commissioned officers of the regiment and of the field officers the same, and the Governor shall issue commissions to the officers elected as aforesaid.

SEC. 18. *Be it further ordained*, That the said corps shall be officered by two Major Generals, to be elected by the commanding officers, under the same rules and regulations as shall be provided for the election of Colonels, Lieutenant Colonels and Majors.

SEC. 19. *Be it further ordained*, That each division shall be commanded by one Major General, who shall be authorized to appoint two aids-de-camp, with the rank of Major; one Division Inspector and one Division Quartermaster, with the rank of Lieutenant Colonel, to be appointed by the Major General, and commissioned by the Governor. That each brigade shall be officered by one Brigadier General, to be elected in the same manner, and at the same time and places as prescribed for the election of Major General, in the preceding sections; and the said brigadier generals shall each have the power to appoint the following staff officers: one brigade major, one brigade inspector, one brigade commissary, one brigade quartermaster, one brigade surgeon; each with the rank of surgeon, and two aids-de-camp with the rank of Captain; the said staff officers, with the exception of the surgeons, to be selected from the volunteer corps, and to hold no higher command than they held in the corps from which they are taken; and such officers to be commissioned by the Governor.

SEC. 20. *Be it further ordained*, That each regiment shall be officered by one Colonel, one Lieutenant Colonel, and one Major, to be selected from the regiment, and such officers shall be chosen as hereinbefore provided, and the colonel of each regiment shall have the power to appoint the following officers: one adjutant, one quartermaster, one commissary, and one surgeon; the officers, except the surgeon, shall be taken from the commisioned officers of the regiment below the rank of captain; and the colonels of regiments shall have power to appoint musicians not exceeding ten in number.

SEC. 21. *Be it further ordained*, That each company shall be officered; one captain, one first and one second lieutenant, one third lieutenant, four sergeants, and four corporals. The commissioned officers of each company shall be elected by the written vote of the men of each company, and the non-commissioned officers to be appointed by the captains; such commissioned officers to be commissioned by the Governor.

SEC. 22. *Be it further ordained*, That as soon as one or more companies shall have been organized as hereinbefore prescribed, it shall be the duty of the captain of said companies to tender the services of said companies to the Governor, designating the time for which such service is offered, all the members of the company signing the same, and the Governor is hereby authorized to receive, arm and equip the same at the expense of the State, to the extent of the appropriation made for that purpose.

SEC. 23 *Be it further ordained*, That the Governor shall, from time to time, furnished to the militia of the State, arms and equipments according to the service for which they are designed, whether cavalry, infantry or artillery, as he shall by appropriation made for that purpose be enabled to do, until all the militia, including volunteers, shall be armed.

SEC. 24. *Be it further ordained*, That for the government and drilling of the volunteers under this organization, each company and regiment shall be governed by the rules and regulations that are now prescribed for the government of the army of the Confederate States; and the corps shall be drilled according to Hardee's Tactics, and such other tactics as shall be prescribed by the Commander-in-chief, and a copy of such tactics shall be furnished to each commissioned officer in said corps.

SEC. 25. *Be it further ordained*, That the time that such volunteer corps shall be liable to the call of the Commander-in-chief shall be ten years; and they shall be exempt, after the expiration of ten years, from active military duty, unless in case of invasion or insurrection; and such corps, when called into active service, shall serve during the time for which they have volunteered, unless sooner disbanded by law.

SEC. 26. *Be it further ordained*, That the same pay and rations now allowed by the army regulations to the commissioned and non-commissioned officers, privates and musicians of the army of the Confederate States, shall be allowed to the volunteer corps and militia, or any part of them, when ordered by the Governor into active service.

SEC. 27. *Be it further ordained*, That the Governor shall have the power, once in each year, to call together the officers of brigades and divisions for the purpose of drill, and shall continue said drill not exceeding six days in each year.

SEC. 28. *Be it further ordained*, That the uniform for the volunteer corps and for the officers of the volunteer corps and militia, shall be cadet gray, manufactured in North Carolina; *Provided*, That the military officers now uniformed, shall not be compelled to change the same until called into actual service; and the different corps and ranks shall be distinguished as the same corps and ranks are now distinguished in the service of the Confed-

erate States: and, *Provided*, That the uniform of the field staff and platoon of officers shall be the same adopted by the rules and regulations relating thereto in the Confederate States.

SEC. 29. *Be it further ordained*, That the military volunteer companies now in the State, as soon as they report themselves with the full complement of men, shall be received by the Governor, and they may retain the uniform which the company have adopted, until called into actual service.

SEC. 30. *Be it further ordained*, That the Governor shall have the power to hold, or cause to be held, a court-martial each year, in the city of Raleigh, to try delinquent general officers of militia, and field officers of the volunteer corps, such court to consist of not more than five nor less than three officers, and the expenses of said court shall be paid by the State.

SEC. 31. *Be it further ordained*, That the Governor shall have the power to collect and repair the arms of the State, and shall be authorized to draw on the Treasurer of the State for the expenses of the said collection and repairing, and such arms as cannot be repaired to advantage, he shall have power to sell.

SEC. 32. *Be it further ordained*, That the clerks of the county courts in the State, shall return to the comptroller the sums of money paid for exemption from military duty under this act.

SEC. 33. *Be it further ordained*, That the Adjutant General be elected by joint ballot of both houses of the General Assembly, and shall keep a roster of the militia of the State, containing dates of commissions, rank, the corps, divisions, brigades and regiments, and the places of residence of officers, which roster shall be corrected every year. He shall enter into a book kept for that purpose, a local description of the regimental brigade and division districts; the books to be furnished by the State and belong to the office. He

shall adopt a seal of office, and all copies of records and papers in his office duly certified under such seal, shall be evidence in all causes as if the original were produced. He shall cause the military laws of the State to be printed from time to time, and distributed to the commissioned field officers of the State; he shall prepare and distribute at the expense of the State, proper blank books, forms and notices; he shall prepare general regulations prescribing the duties of the different military departments, which, when approved by the Commander-in-chief, shall be obeyed and respected. He shall report to the Legislature, through the Commander-in-chief, the strength and condition of the military of the State, of the public arms, equipments, ordnance, books, and military stores; and he shall render a statement of all that may be necessary to keep up an ample supply of every article that may be required in the public service; he shall execute all orders of the Commander-in-chief, and keep a record thereof; he shall attend reviews with the Commander-in-chief, and as quartermaster-general, he shall give a bond in the sum of five thousand dollars for the faithful discharge of his duties, with two good securities, to be approved by the commander-in-chief; he shall receive a salary of eighteen hundred dollars per annum, in full payment for services rendered as adjutant general, acting quartermaster-general, inspector-general, and keeper of public stores and munitions of war. He shall attend all encampments, and while the troops are under arms, he shall inspect their arms, ammunition and accoutrements, superintend the exercises and enforce the discipline and tactics required by law. He shall, in time of war, have the command and rank of brigadier-general; he shall cause suit to be brought in the name of the State of North Carolina, and he is hereby empowered so to do in any court in this State, or before any justice of the peace, when the amount sued for is within the jurisdiction of justice of the peace by the laws of this State, for any penalty incurred or any fine imposed by reason of the

military laws of the State. He shall hold his office for the space of two years, unless the same is made vacant by resignation or promotion; and should the office become vacant by reason of death, resignation, refusal to accept, or otherwise, during the recess of the Legislature, then the Governor may fill said office by appointment until the next meeting of the General Assembly.

SEC. 34. *Be it further ordained*, That it shall be the duty of the commandant of each regiment, within thirty days after the organization of the same, to assemble them upon the regimental muster ground and to take a list of all persons in his regiment who have not volunteered, and put the names into a box upon separate pieces of paper, and to place an equal number of papers in another box, one third marked with the number one, one third marked with the number two, and one third with the number three, and two persons appointed to the said duty, shall, in the presence of the field officers, after being sworn, proceed to draw out of the box containing the names, one ballot, and out of the box containing the numbers, one ballot, and a clerk shall record the same. Those who shall draw number one, shall be subject to be drafted into the service on the first requisition of the Governor; those who shall draw number two, shall be subject to be drafted on the second requisition by the Governor, and those who shall draw number three, shall be subject to be drafted on the third requisition of the Governor. And it shall be the duty of the commandant of each regiment to forward a list of said names, drawn as aforesaid, to the adjutant general; *Provided*, That no volunteer shall be subject to be drafted into the service.

SEC. 35. *Be it further ordained*, That the term of service for each person so drafted shall be twelve months, unless sooner discharged by the order of the commander-in-chief, and no person having served as a drafted soldier shall be liable to a second term of service until all the requisitions have been called into the service, except in cases of insur-

rection or invasion, or such circumstances of imminent peril as in the discretion of the Governor may render a general call upon the militia necessary.

SEC. 36. *Be it further ordained*, That upon any call upon the drafted militia, it shall be lawful for the Governor to command any of the company officers, not volunteers, to make up a company of the same and lead them into the service.

SEC. 37. *Be it further ordained*, That upon the delivery of arms to any company of militia or volunteers, it shall be the duty of the commandant of the regiment delivering the same, to take a receipt describing the arms, from said captain, and the captain shall take such receipt from each of the men receiving arms, all of which receipts shall be returned to the clerk of the county court, and these receipts thus taken and filed shall relieve the said commandant and captain from responsibility; *Provided*, That it shall be the duty of the commandant of each company to require the arms thus delivered to the men, to be exhibited at each drill, and if the arms are not so exhibited, or the said commandant shall have reason to believe said arms to be lost or disposed of unlawfully, he shall at once make the same known to the county attorney, who, upon notice issued against the person destroying or unlawfully disposing of his arms, shall recover a judgment for the full value of said arms, with costs.

SEC. 38. *Be it further ordained*, That it shall be the duty of any one of the field officers of any regiment, or the oldest captain, should there be no field officer, upon complaint or oath made by any responsible person, that there are unlawful assemblies within his command or danger of insubordination amongst slaves, to detail a military patrol, designating their duties and requiring the officer commanding said patrol to report to him how he has discharged his duty; and the said patrol shall deliver all persons detected in the violation

of the law, to the civil magistrate for the examination of the charges made against them.

SEC. 39. *Be it further ordained*, That this act shall be in force from and after its ratification, and all laws coming in conflict with the provisions of this act, are hereby repealed.

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